

**PRESENTED BY:** Real Estate Institute of Zimbabwe

**Proposal to the Ministry of Finance & Economic Development to  
restructure Value Added Tax provisions impacting supply of housing by  
property developers**

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# 1. Executive summary

This paper is a proposal to the Ministry of Finance, Economic Development & Investment Promotion (MoFEDIP) for the Ministry's consideration in reviewing Value Added Tax (VAT) legislation applicable on:

- a) Supply of residential housing units by property developers under Freehold and Leasehold arrangements,
- b) Disposal of freehold land by a VAT registered operator.

Research carried out by property developers notes that:

- Supply of affordable housing is a key deliverable for the Government of Zimbabwe as outlined in the National Development Strategy (NDS)
- The housing backlog continues to increase and stands at 2million as of Q4 2023 up from 1.2million in 2021
- Residential property prices in Zimbabwe are the highest in the region due to depressed supply and high construction costs and limited availability of property priced development capital in the country
- There are no tax concessions in place to promote investment in residential property development.
- VAT legislation in place does not promote property development by property developers who complement Government effort to provide affordable accommodation. VAT as a final tax is borne by the property purchaser/ property investor/ pension funds who are directing limited liquidity towards investment in housing to complement Government targets under NDS1. Levying VAT on the sale of residential accommodation reduces feasibility of realization of the NDS1 housing targets.
- Tax legislation pronouncements in the 2023 National Budget do not complement property developer business cycles to enable supply of residential housing units.

## **PROPOSED AMENDMENTS TO VAT ACT**

The paper provides proposals to the Ministry of Finance, Economic Development & Investment Promotion (MoFEDIP) for the following:

**1.** To amend the Value Added Tax Act (Chapter 23:12), **by exempting supply of low cost built housing units from VAT** in order to achieve policy consistency and support realization of the NDS1 vision of supplying affordable housing accommodation to the country. This move will also reduce the cost of ownership for low income property owners. It is proposed that this exemption be applied to low cost housing developments **with a value of below US\$250,000**. This value cap is aligned to the Property Wealth Tax Provisions.

**2. Supply of undeveloped land by registered operators must be exempt** to remove the cashflow burden on property investors seeking to invest in residential and commercial development projects. No VAT should be charged since no value addition has occurred.

## 2. Value Added Tax Act (Chapter 23:12) provisions applicable in freehold vs leasehold residential property transactions

### Residential property sales (freehold transactions)

A **freehold transaction** transfers beneficial ownership (freehold rights) from the Property Seller to the Buyer.

Section 2 (1) of the VAT Act defines that taxable goods includes fixed property and any real right in fixed property.

Implications of this section are that:

- **VAT is charged** on the supply of residential property under a sale transaction (transaction involving transfer of freehold rights) by a property developer
- VAT is also charged on the supply of serviced residential stands by a VAT registered property developer.

**VS**

### Residential property rentals (leasehold transactions)

A **leasehold transaction** bestows time defined property usage rights and doesn't transfer ownership.

Section 11c) of the VAT Act states that the supply of residential accommodation in a dwelling under a lease agreement shall be exempt from charging VAT.

Implications are that:

- **No VAT tax is charged** to the tenant of a residential lease arrangement (transaction involving transfer of leasehold rights)
- The landlord cannot claim input tax incurred in constructing the residential accommodation since the supply is exempt.
- Such unclaimable input tax claim includes cost of construction of the residential dwelling and adding any furniture which may be incurred by a property developer in developing the residential accommodation.

## 2.1 Location of the VAT burden

- Property developers increase property prices in order to pay for VAT on property sale transactions. This has led to property inflation in Zimbabwe with property prices being disproportionate to neighbouring countries such as South Africa, Botswana and Namibia to name a few.
- In South Africa tax concessions are offered to encourage development of residential accommodation and these include transfer fees charged at 0% to alleviate tax burden on the buyer.
- The incidence and burden of the VAT is on the ultimate consumer of the final product, in this case, the potential home-owner or pension fund which seeks to make investments towards attaining the national housing vision envisaged in NDS1.
- **Given the above, it is recommended that Government lowers the burden on would be house owners by exempting the supply of low cost built residential accommodation from VAT.**

## 2.2 Change of use increases VAT burden

- It is common practice that real estate developers may initiate developments intending to lease out the constructed units. In such an instance, input VAT is not claimable as the supply (leased accommodation) is exempt from VAT.
- Real estate developers may in-turn opt to dispose these units in the future, in which instance VAT output would be charged. In this instance, the real estate developer would have lost out on VAT input taxes paid out during construction.
- **The 12month window to claim input tax is not practical for property development projects.**
- The above example illustrates lack of efficiency in the VAT Act provisions which charge the tax differently on supply of similar services.
- Change of use provisions in the VAT Act do not cover this scenario as input VAT is not claimable after a period of 12 months after invoicing. Therefore, if there is a change in use, VAT claims fall away and the property developer loses value.
- **Exempting supply of residential properties from VAT will address this challenge.**

## 2.3 Currency Issues

- Construction of residential properties is typically done over a lengthy period of time ranging from 6 months to 18 months. During this construction period, VAT input tax claims are limited to the preceding 12 months thereby placing an immediate administrative burden on property developers to claim and follow up on VAT input taxes from ZIMRA before construction milestones are reached.
- During the construction phase property developers may incur input tax in both Zimbabwe Dollars and United States dollars. VAT legislation require these 2 to be treated separately for VAT purposes, meaning ZIMRA will reimburse the ZWL component in ZWL and USD input tax is reimbursed in USD.
- However, ZIMRA takes more than 6 months on average to process input tax claims and during which period the property developer would have lost value on ZWL claims due to inflation.
- **It is proposed that to enhance investment into residential real estate, the Government exempts the supply of built and sold residential accommodation in the same manner as leased residential accommodation is exempt.**

## 2.4 Comparison with other jurisdictions

- **In South Africa**, if a taxpayer owns residential properties as investments, the sale of these properties will not be subject to VAT as residential accommodation is an exempt supply i.e. not standard rated or zero-rated.
- **In Zambia**, the sale of land (undeveloped) is exempt from VAT. In Zimbabwe sale of undeveloped land by a register operator attracts VAT.
- As shown above, other jurisdictions have embraced VAT regulations which promote residential property development transactions.
- Treating property development in the same manner as low capital investments may negate the vision outlined in NDS 1.

### 3. Inconsistency with National Development Strategy (NDS1)

- *Extract from NDS1: Given the huge housing backlog and the inadequacies of attendant infrastructure, Government will, through the NDS1, prioritise citizens' access to affordable and quality settlements in urban and rural areas. Focus will be on construction of new housing units and upgrading of informal settlements equipped with the necessary basic and social services infrastructure and amenities in order to improve the quality of life.*
- As summarized above, a major target of NDS1 is to provide affordable accommodation to the nation. However, this vision may not be met due to VAT legislation which imposes the cost of VAT on would be home-owners, this puts the cost of ownership of houses above the reach of many.
- Property developers charge VAT on disposal of residential housing units in order to remain compliant with VAT legislation. This VAT charge is borne by the first-time home-owners, or pension funds which are seeking to invest limited financial resources towards meeting the national vision.
- It is our proposal that the Ministry of Finance and Economic Development removes the VAT burden by exempting from VAT, the supply of residential housing units by property developers.
- **Exempting supply of low cost residential houses from VAT** will reduce the cost of ownership of houses and will allow the nation to meet the goal envisaged in NDS1.

## 4. Sale of undeveloped land by a VAT registered operator

- The VAT Act provides for the application of VAT on a transaction to dispose/ acquire undeveloped and unsubdivided land (excluding farm and communal land) by a VAT registered operator. (Ref. definition of “fixed property” under Section 2 of VAT Act).
- This treatment goes against the tenets of international VAT legislation, **there is no value added** on disposal of undeveloped land.
- This input VAT is borne by the property purchaser, who may be acquiring the property with a view to develop residential or commercial property. However, such input taxes paid are unrecoverable after 12months. Meaning the property purchaser loses value despite there being no value added in the disposal of vacant land.
- It is our proposal that the Ministry of Finance exempts from VAT, the disposal of undeveloped land. VAT should only arise on improvements made on the land.
- Removal of the VAT burden on sale of undeveloped land will reduce the **CASHFLOW** burden of VAT on acquisition of land, this reduced burden will allow property developers to direct the limited liquidity towards property development.
- **It is proposed that to enhance real estate transactions which will enable further investment into residential and commercial real estate developments, the Government exempts the supply of undeveloped land from VAT.**

# 5. Recommendations

- It is our recommendation that Government through the Ministry of Finance and Economic Development considers the following legislative changes to enhance value creation in property transactions.

**1. VAT EXEMPTION ON LOW COST RESIDENTIAL PROPERTY:** Supply of low cost residential properties (with a value of less than US\$250,000) by property developers who are registered operators should be exempt from VAT. This will remove the VAT burden on property investors (home-owners and pension funds), this enables provision of affordable accommodation.

It is proposed that **VAT provisions on supply of serviced stands be maintained** so that its more attractive to property developers to service and build houses instead of just selling serviced stands. This will increase residential property developmental activity in pursuit of Government NDS targets.

**2. VAT EXEMPTION ON UNDEVELOPED LAND:** Supply of undeveloped land by registered operators must be exempt to remove the cashflow burden on property investors seeking to invest in residential and commercial development projects. No VAT should be charged since no value addition has occurred.

## References

- Value Added Tax Act (Chapter 23:12)
- National Development Strategy 1
- 2023 National Budget